

### **EXAMINER'S AMENDMENT**

The Appeal Brief filed on 10/21/2010 is acknowledge. An Appeal Brief conference was held on Nov 4, 2010 with Terry Mckelvey, Cecilia Tsang, and Qiuwen Mi in attendance. There it was decided that Applicants' arguments are persuasive to overcome the previous 103 rejections sent out on 5/13/2010, and the New Matter rejection and 112, 2<sup>nd</sup> rejection have been overcome by the claim amendments below.

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Robery E. Goozner on 11/08/2010.

The Application has been amended as follows:

#### **IN THE CLAIMS:**

Claims 24 and 25 have been cancelled.

Claim 1 has been amended to read as follows:

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A composition, for the treatment of an affection of the oral cavity and upper respiratory tract, comprising:

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1-200 mg anthocyanosides;

1-200 mg procyanidins; and

1-200 mg phloroglucinols,

Wherein the anthocyanosides are derived from a *Vaccinium myrtillus* extract, the procyanidins are derived from a *Vitis vinifera* extract, a *Camellia sinensis* extract or from another edible plant containing the procyanidins, and the phloroglucinols are derived from *Hypericum spp.*, *Myrtus spp.* or *Humulus lupulus* extracts.

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Claim 7 has been amended to read as follows:

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The composition as claimed in claim 6, wherein 20-80% of the phloroglucinols from the  $\beta$  acids of *Humulus lupulus* are colupulone, and the  $\alpha$  acids contain 20-80% of humulone.

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Claim 8 has been amended to read as follows:

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The composition as claimed in claim 7, wherein 60% of the phloroglucinols from the  $\beta$  acids of *Humulus lupulus* are colupulone, and the  $\alpha$  acids contain 60% of humulone.

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Claim 9 has been amended to read as follows:

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The composition as claimed in claim 1, wherein the *Hypericum* sp extract is a *Hypericum perforatum* extract with a phloroglucinol content ranging from 20-80%.

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In claims 11 and 22, at lines 4-5, the phrase "under conditions of pressure ranging from 235 to 260 bars and temperatures ranging from 40-60 °C" has been deleted, and replaced with the phrase --at a pressure ranging from 235 to 260 bars and a temperature ranging from 40-60 °C--.

Claim 12 has been amended to read as follows:

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The composition as claimed in claim 11, wherein the *Myrtus communis* extract has a myrtucommulone content of 35%.

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Claim 15 has been amended to read as follows:

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A method for the treatment of an affection of the oral cavity and upper respiratory tract, said method comprises: administering to a patient in need thereof an effective amount of a medicament containing:

1-200 mg anthocyanosides;

1-200 mg procyanidins; and

1-200 mg phloroglucinols,

Wherein the anthocyanosides are derived from a *Vaccinium myrtillus* extract, the procyanidins are derived from a *Vitis vinifera* extract, a *Camellia sinensis* extract or from another edible plant containing the procyanidins, and the phloroglucinols are derived from *Hypericum spp.*, *Myrtus spp.* or *Humulus lupulus* extracts.

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Claim 18 has been amended to read as follows:

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The method as claimed in claim 17, wherein 20-80% of the phloroglucinols from the  $\beta$  acids of *Humulus lupulus* are colupulone, and the  $\alpha$  acids contain 20-80% of humulone.

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Claim 19 has been amended to read as follows:

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The method as claimed in claim 18, wherein 60% of the phloroglucinols from the  $\beta$  acids of *Humulus lupulus* are colupulone, and the  $\alpha$  acids contain 60% of humulone.

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Claim 20 has been amended to read as follows:

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The method as claimed in claim 15, wherein the *Hypericum* sp extract is a *Hypericum perforatum* extract with a phloroglucinol content ranging from 20-80%.

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Claim 23 has been amended to read as follows:

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The method as claimed in claim 17, wherein the *Myrtus communis* extract has a myrtucommulone content of 35%.

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In claims 6, 10, 11, 13, and 14, at line 1, the term "compositions" has been deleted, and replaced with the term --composition--.

Claims 1, 6-15, and 17-23 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qiuwen Mi whose telephone number is 571-272-5984. The examiner can normally be reached on 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Qiuwen Mi/

Primary Examiner, Art Unit 1655

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